

## **Exhibit 7**

Eugene B. Phillips, II

1	UNITED STATES DISTRICT COURT	1	INDEX OF EXAMINATIONS
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5	)No. 12-CV-01971 CW (KAW)	5	
6	Plaintiff, )	6	INDEX OF EXHIBITS
7	v. )	7	
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9	et al., )	9	Exhibit 1 Provisional Application for Patent 49
10	Defendants. )	10	Exhibit 2 741 Patent 53
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1	APPEARANCES	09:03	1 VIDEOGRAPHER: Good morning. We're going on
2	ON BEHALF OF THE PLAINTIFF:	09:03	2 the record. The time on the video monitor is 9:01
3	ADAM G. PRICE, Esquire	09:03	3 a.m. Today's date is April the 18th, 2013. We are
4	DINOVO, PRICE, ELLWANGER & HARDY, LLP	09:03	4 located at the CaseWorks office, 8601 Six Forks Road
5	7000 North MoPac Expressway, Suite 350	09:03	5 in Raleigh, North Carolina.
6	Austin, Texas 78731	09:03	6 This marks the beginning of media Number 1
7	(512) 539-2632 / aprice@dpelaw.com	09:03	7 of the deposition of Eugene B. Phillips, II, in the
8	ON BEHALF OF THE DEFENDANT:	09:03	8 matter of Digital Reg of Texas, LLC, versus Adobe
9	EDWARD R. REINES, Esquire	09:03	9 Systems Incorporated, et al, in the US District Court,
10	WEIL, GOTSHAL & MANGES, LLP	09:03	10 Northern District of California, Oakland Division,
11	201 Redwood Shores Parkway	09:03	11 Case Number 12-CV-01971 CW (KAW).
12	Redwood Shores, California 94065	09:03	12 My name is Brad Cartner. I am a legal video
13	(650) 802-3000 / edward.reines@weil.com	09:03	13 specialist here on behalf of Chase Litigation
14	ON BEHALF OF DEFENDANT VALVE CORPORATION:	09:03	14 Services. The court reporter is Regina Toppins, also
15	REY BARCELO, Esquire (Via Telephone)	09:03	15 on behalf of Chase Litigation Services.
16	BARCELO, HARRISON & WALKER, LLP	09:03	16 Counsel, would you please identify
17	2901 West Coast Highway, Suite 200	09:03	17 yourselves and state whom you represent.
18	Newport Beach, California 92663	09:03	18 MR. REINES: Edward Reines from Weil,
19	(949) 340-9736 / rey@bhiplaw.com	09:03	19 Gotshal for EA, and Adobe.
20	ON BEHALF OF DEFENDANT UBISOFT, INC.:	09:04	20 MR. PRICE: Adam Price from Dinovo Price for
21	MARK C. LANG, Esquire (Via Telephone)	09:04	21 Digital Reg, and Mr. Phillips individually.
22	ERISE IP, P.A.	09:04	22 MR. BARCELO: This is Rey Barcelo on the
23	6201 College Boulevard, Suite 300	09:04	23 phone from Barcelo, Harrison & Walker for Defendant
24	Overland Park, Kansas 66211	09:04	24 Valve Corporation.
25	(913) 777-5600 / mark.lang@eriseIP.com	09:04	25 MR. LANG: This is Mark Lang on the phone
	VIDEOTAPED DEPOSITION OF EUGENE B. PHILLIPS, II,		
	a witness called on behalf of Defendants, before Regina		
	Toppins, Notary Public, in and for the State of North		
	Carolina, at the offices of CaseWorks, Inc., 8601 Six		
	Forks Road, Raleigh, North Carolina 27615, on Thursday,		
	the 18th day of August, 2013, commencing at 9:00 a.m.		
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Eugene B. Phillips, II

09:04 1 for Erise IP, representing Defendant Ubisoft, Inc.  
 09:04 2 P R O C E E D I N G S  
 09:04 3 EUGENE B. PHILLIPS,  
 09:04 4 having been duly sworn, testifies as follows:  
 09:04 5 EXAMINATION  
 09:04 6 VIDEOGRAPHER: Please begin.  
 09:04 7 BY MR. REINES:  
 09:04 8 Q. Please state your name and address for the  
 09:04 9 record.  
 09:04 10 A. Eugene B. Phillips, II. 5745 Poolside Drive in  
 09:04 11 Raleigh, North Carolina 27612.  
 09:04 12 Q. Are you employed?  
 09:04 13 A. I'm a private contractor.  
 09:04 14 Q. Who do you work for?  
 09:04 15 A. I work for a number of companies, including  
 09:05 16 myself.  
 09:05 17 Q. Okay. Do you have an LLC or anything like that?  
 09:05 18 A. No.  
 09:05 19 Q. Do you have any association with Vendto?  
 09:05 20 A. I am working in the Vendto project, yes.  
 09:05 21 Q. So, you do that on a contract basis; is that  
 09:05 22 right?  
 09:05 23 A. Um-hmm.  
 09:05 24 Q. If that's a yes, you need to say.  
 09:05 25 A. Yes. Excuse me, yes.

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09:06 1 of which you've worked over the years?  
 09:06 2 A. I, you know, I own a little of the stock of DRM  
 09:06 3 Technologies, LLC, as far as I know anyway.  
 09:06 4 Q. Right. And you understand that DRM Technologies  
 09:06 5 has an interest in this lawsuit?  
 09:06 6 A. Yes.  
 09:06 7 Q. Okay. Based on the fact that you've been  
 09:07 8 prepared by counsel for Dig Reg for your deposition  
 09:07 9 today, I'm going to assume you have a general  
 09:07 10 understanding of the process, but let me go over some --  
 09:07 11 A. Okay.  
 09:07 12 Q. -- specifics. During the course of the  
 09:07 13 deposition I'm going to ask some questions, and then  
 09:07 14 you're responsible for giving answers. During the  
 09:07 15 course of the deposition there may be objections, but  
 09:07 16 those don't affect your obligation to respond fully and  
 09:07 17 accurately unless something is stated to the contrary.  
 09:07 18 A. Okay.  
 09:07 19 Q. Do you understand that?  
 09:07 20 A. Yes, I do.  
 09:07 21 Q. If during the course of the deposition you'd like  
 09:07 22 to take a walk to stretch your legs, to use the  
 09:07 23 lavatory, let me know, and then at an appropriate time  
 09:07 24 we'll take a break to do so. Do you understand that?  
 09:07 25 A. Yes, I do.

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09:05 1 Q. Have you ever had your deposition taken before?  
 09:05 2 A. Never.  
 09:05 3 Q. Did you meet with counsel for Dig Reg in  
 09:05 4 preparing for today?  
 09:05 5 A. Yes, briefly.  
 09:05 6 Q. When did you meet?  
 09:05 7 A. Yesterday.  
 09:05 8 Q. How long was the meeting?  
 09:05 9 A. An hour.  
 09:05 10 Q. Did you -- when before that have you met with the  
 09:05 11 lawyers from Dig Reg in person?  
 09:05 12 A. No.  
 09:05 13 Q. How about by phone?  
 09:05 14 A. I have met with the lawyers, yes, over the course  
 09:05 15 of this entire suit. I've listened in on a few calls,  
 09:05 16 yeah.  
 09:06 17 Q. And what was the purpose for your participation  
 09:06 18 in those calls?  
 09:06 19 A. Just to be aware of the general circumstances.  
 09:06 20 Q. Were you paid for your time?  
 09:06 21 A. No.  
 09:06 22 Q. Are you being paid for your time now?  
 09:06 23 A. No.  
 09:06 24 Q. Do you have continued interest of any kind  
 09:06 25 economically in any of the vendors, Farley Enterprises

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09:07 1 Q. If during the course of the deposition you don't  
 09:07 2 understand any question I'm asking, or any aspect of a  
 09:07 3 question, let me know and as appropriate I'll address  
 09:07 4 your concern. If you don't say anything, I'll assume  
 09:07 5 that you fully understand my question; is that fair?  
 09:07 6 A. Yes.  
 09:08 7 Q. The court reporter is taking down what's being  
 09:08 8 said, as you can tell. In order for that process to  
 09:08 9 work, it's important for you to wait for me to complete  
 09:08 10 my question before you give your answer. That can be a  
 09:08 11 very difficult thing to do.  
 09:08 12 A. Okay.  
 09:08 13 Q. It's not a normal everyday conversational thing.  
 09:08 14 I can see that you're, like most people, gonna take a  
 09:08 15 few reminders to just hold off on speaking, okay?  
 09:08 16 A. Sure.  
 09:08 17 Q. You understand that?  
 09:08 18 A. Okay.  
 09:08 19 Q. And also because the court reporter is taking  
 09:08 20 down what's being said, it's important that you give  
 09:08 21 answers in the form of words rather than nods and  
 09:08 22 gesticulations.  
 09:08 23 A. Right.  
 09:08 24 Q. Again, I'll keep you clear on that, but to the  
 09:08 25 extent that you do it, then I don't have to give

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09:08 1 reminders.  
 09:08 2 A. Okay.  
 09:08 3 Q. Let's go through your educational history. You  
 09:08 4 went to North Carolina State; is that correct?  
 09:09 5 A. Correct.  
 09:09 6 Q. And you got an Electrical Engineering degree?  
 09:09 7 A. Correct.  
 09:09 8 Q. What year was that?  
 09:09 9 A. I got my degree from State in '83, way back.  
 09:09 10 Q. After that did you take courses of at UNC?  
 09:09 11 A. No, actually graduated from UNC first. I  
 09:09 12 graduated in '78 from UNC Chapel Hill.  
 09:09 13 Q. What was the degree?  
 09:09 14 A. Radio, Television and Motion Pictures.  
 09:09 15 Q. Was that a Bachelor's?  
 09:09 16 A. Yes, B. A.  
 09:09 17 Q. And then what was the degree that you got at N.C.  
 09:09 18 State?  
 09:09 19 A. A B.S. CE.  
 09:09 20 Q. How come you went back? So, you got a Bachelor's  
 09:09 21 and then you went back to get another Bachelor's?  
 09:09 22 A. Yeah, I went to State first for a couple of  
 09:09 23 years, got interested in television, transferred to UNC,  
 09:09 24 got my degree. Then, in the process of getting my SEC  
 09:09 25 ticket, I got interested in Engineering and went back to

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09:11 1 somewhat, yes.  
 09:11 2 Q. And what did you do from your graduation from  
 09:11 3 North Carolina State in 1983 until 1995?  
 09:12 4 A. I went to work for Northern Telecom. That's what  
 09:12 5 it was called back then in the DMS 10 Installation  
 09:12 6 Engineering Department. And then at that for five  
 09:12 7 years. Then I went into business for myself, which is  
 09:12 8 always interesting, and I had that for five years. And  
 09:12 9 then I went to work with Chip.  
 09:12 10 Q. What was the nature of the business that you were  
 09:12 11 in for yourself?  
 09:12 12 A. It was a large format flat sheet screen printing  
 09:12 13 company, posters, signs.  
 09:12 14 Q. Nothing not using your EE degree?  
 09:12 15 A. No.  
 09:12 16 Q. Did you use your EE degree at Total Fax?  
 09:12 17 A. Did I use my EE? Certainly as a technology  
 09:13 18 company, and electro engineering is a technology field;  
 09:13 19 and so, I would say yes.  
 09:13 20 Q. Now, in terms of your association with Vendto, do  
 09:13 21 you have a contract with them?  
 09:13 22 A. No.  
 09:13 23 Q. So, is it just they ask -- what rate do you  
 09:13 24 charge them?  
 09:13 25 A. Well, it's not set. I'm actually just, you know,

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09:10 1 school got my Engineering degree.  
 09:10 2 Q. When did you meet Mr. Venters?  
 09:10 3 A. I met Mr. Venters in 1973.  
 09:10 4 Q. What was the circumstances?  
 09:10 5 A. We both played on our high school football team.  
 09:10 6 Q. When did you first work with him professionally?  
 09:10 7 A. I worked with Chip in a small company called  
 09:10 8 Total Fax, a fax broadcasting company, I believe, in '96  
 09:10 9 through '98, I think. Or, excuse me, probably '95 or  
 09:10 10 '96 through '97, I think is correct.  
 09:10 11 Q. How did it come about that you started working  
 09:10 12 with him?  
 09:11 13 A. Well, we were friends, and I had a large -- I had  
 09:11 14 a large format flat screen screen printing company of my  
 09:11 15 own, and I sold that and was looking for something to  
 09:11 16 do, and Chip had -- was starting his fax broadcasting  
 09:11 17 company and I went to work with him.  
 09:11 18 Q. What role did you have in Total Fax?  
 09:11 19 A. I was Operations Manager, you know. I, I ran the  
 09:11 20 day-to-day operations.  
 09:11 21 Q. Were you involved in terms of technically  
 09:11 22 developing the product?  
 09:11 23 A. I was a bit. We -- I worked -- we did have some  
 09:11 24 software work done for us in developing our fax  
 09:11 25 broadcasting package, and I was involved in that

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09:13 1 working with them because I'm interested in the project.  
 09:13 2 And I hopefully it's, you know, some equity elbow  
 09:13 3 grease.  
 09:13 4 Q. How do you get compensated?  
 09:13 5 A. Well, we're looking for, you know, it's a  
 09:13 6 start-up. You're not compensated sometimes.  
 09:13 7 Q. Okay. So, for whatever work you've done at  
 09:13 8 Vendto, you haven't received any money?  
 09:13 9 A. No.  
 09:13 10 Q. Have you received stock?  
 09:13 11 A. Not in Vendto, no. You know, I -- Vendto is a --  
 09:13 12 is related to DRM Technologies, LLC. And, you know, I  
 09:14 13 assume by default I will own a little bit of Vendto.  
 09:14 14 Q. How much time have you spent working on Vendto?  
 09:14 15 A. I've been working on the project now for, on and  
 09:14 16 off for since about June of this year -- excuse me, of  
 09:14 17 '12. Again, I have other projects I work on.  
 09:14 18 Q. How many hours I guess is more my question?  
 09:14 19 A. I would say that it's, you know, it's a  
 09:14 20 part-time. I couldn't estimate the hours, you know.  
 09:14 21 It's a part of my week. It's for a few hours, couple of  
 09:14 22 hours a day maybe. I would say probably 10 to 15 hours  
 09:14 23 a week, something like that.  
 09:14 24 Q. So, in the last week you've worked on the Vendto  
 09:14 25 project?

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Eugene B. Phillips, II

12:07 1 A. It's a basic overview of the DCI system.  
 12:07 2 Q. Of, of the what's that?  
 12:07 3 A. DCI system. Just like it says. It's a  
 12:07 4 10,000-foot shot.  
 12:08 5 Q. And does this encompass the securing technology?  
 12:08 6 A. I would have to say no.  
 12:08 7 Q. Turn to Page 018.  
 12:08 8 A. Yes, sir.  
 12:08 9 Q. What were you attempting to show here?  
 12:08 10 A. I believe I was trying to show our concept behind  
 12:09 11 the Air configuration of our, you know, potential Air  
 12:09 12 product cross platform product.  
 12:09 13 Q. I don't see any reference to Adobe in here; is  
 12:09 14 there some reason for that?  
 12:09 15 A. Well, for me, the DC java applet would have been,  
 12:09 16 would have been required to run the Air system for us.  
 12:09 17 That's why I say that.  
 12:09 18 Q. Which item?  
 12:09 19 A. The java applet.  
 12:09 20 Q. And you're saying this is a reference to an Adobe  
 12:09 21 platform?  
 12:09 22 A. I believe that when we said Next Generation  
 12:09 23 System, we were intending this to describe our Air  
 12:09 24 version of The Envelope, The Container.  
 12:10 25 Q. In your -- when you were working on the Adobe

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12:12 1 you know, when I, you know, there would be many  
 12:12 2 infringers. Is that not a terrible answer?  
 12:12 3 Q. No, it's --  
 12:12 4 A. Really being honest.  
 12:12 5 Q. Trying to process the responsiveness. But with  
 12:12 6 respect to Adobe, you don't recall ever reaching any  
 12:12 7 conclusion that Adobe was infringing, and you don't  
 12:12 8 recall anyone ever saying that?  
 12:12 9 A. I don't recall anyone saying. I don't recall. I  
 12:12 10 don't remember. Personally, you know, like most of the  
 12:12 11 applications I use, some of which were Adobe, from my  
 12:12 12 understanding personally I thought they all probably  
 12:12 13 were -- had some infringement.  
 12:12 14 Q. When you say they all?  
 12:12 15 A. I mean, any application that, you know, takes  
 12:12 16 information and makes it so you can't put it on another  
 12:12 17 machine and make it work, that's us.  
 12:13 18 Q. Okay. And you're saying you had this belief.  
 12:13 19 Okay, I think I understand what you're saying, but you  
 12:13 20 had this belief when?  
 12:13 21 A. For me.  
 12:13 22 Q. 2003?  
 12:13 23 A. For me when I understood, you know, when I  
 12:13 24 finally kind of.  
 12:13 25 VIDEOGRAPHER: Microphone.

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12:10 1 project, did you familiarize yourself with the Adobe  
 12:10 2 technology in the DRM space?  
 12:10 3 A. Only superficially, you know, so I could  
 12:10 4 understand Seth and talking about, you know, the  
 12:10 5 integrated run time, the W integrated run time. And  
 12:10 6 what would be required product-wise to get that to work,  
 12:10 7 for example, the java applet distribution server.  
 12:10 8 Q. Did anyone within DigitalContainer suggest that  
 12:10 9 Adobe was infringing any of the DigitalContainers family  
 12:10 10 of patents?  
 12:10 11 MR. PRICE: Objection. Let me caution the  
 12:10 12 witness not to reveal any privileged information.  
 12:10 13 A. I don't recall.  
 12:10 14 Q. Did you ever have a suspicion that Adobe was  
 12:11 15 infringing on any of the DigitalContainers patents?  
 12:11 16 MR. PRICE: Same caution.  
 12:11 17 A. You know, we thought that our portfolio described  
 12:11 18 a very basic system that pretty much any company was  
 12:11 19 going to violate if they decided to do these kinds of  
 12:11 20 operations really. You know, we were there early and we  
 12:11 21 felt there would be a lot of infringers, you know.  
 12:11 22 So, that was not my end of the company, but  
 12:11 23 that's, you know, this is a really basic process. You  
 12:11 24 got to kind of do some of it if you want to send people  
 12:11 25 stuff and have it be secure. So, I think in my mind,

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12:13 1 A. For me, I think starting early on when I was  
 12:13 2 working at Deskgate, and finally kind of understood the  
 12:13 3 scope of those patents that were developed there. I  
 12:13 4 felt personally all along from early on that there were  
 12:13 5 most companies would be infringers.  
 12:14 6 Q. And by the time that you submitted your own  
 12:14 7 patent application in 2003, you had that belief?  
 12:14 8 MR. PRICE: Objection form.  
 12:14 9 A. Yes. I guess since my beliefs started before  
 12:14 10 that, I would say, yes.  
 12:14 11 Q. If you'd turn to Page 20, do you have that in  
 12:14 12 front of you?  
 12:14 13 A. Yes, sir.  
 12:14 14 Q. And that's the title Next Generation System  
 12:14 15 Encryption? Actually, let me go back one to 19.  
 12:14 16 A. Yes, sir.  
 12:14 17 Q. Let me go back even one more to 18 to where we  
 12:14 18 were. You have that reference to in the second set of  
 12:14 19 the second list, it refers to Microsoft Active  
 12:14 20 Directory; do you see that?  
 12:14 21 A. Um-hmm.  
 12:14 22 Q. You need to answer with a word.  
 12:15 23 A. Yes.  
 12:15 24 Q. What is that referring to?  
 12:15 25 A. Well, you know, that entire list is server

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Eugene B. Phillips, II

12:15 1 security products.  
 12:15 2 Q. Can you describe what?  
 12:15 3 A. I don't know even know what a Microsoft Active  
 12:15 4 Directory is frankly.  
 12:15 5 Q. Did you know at the time that you created this  
 12:15 6 chart?  
 12:15 7 A. No.  
 12:15 8 Q. You just included it?  
 12:15 9 A. Well, I did the chart part. Okay, that's my -- I  
 12:15 10 do the drawings like that. This stuff I don't know  
 12:15 11 about.  
 12:16 12 Q. Turning to the next page, can you describe what  
 12:16 13 this shows?  
 12:16 14 A. Oh, 019?  
 12:16 15 Q. Yes.  
 12:16 16 A. Boy, that's a good question. This was a -- this  
 12:16 17 was a drawing describing some of our plans. And I know  
 12:16 18 that we, you know, the open mobile alliance with the old  
 12:16 19 make was big then. And kind of think we wanted to  
 12:17 20 demonstrate that we could operate in that system, that's  
 12:17 21 all.  
 12:17 22 Q. On the left side you see where it says -- never  
 12:17 23 mind that.  
 12:17 24 On 20, Page 20 entitled Next Generation System  
 12:17 25 Encryption, what are you showing here?

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12:19 1 A. Yes.  
 12:19 2 Q. And this describes how your invention works; is  
 12:19 3 that correct?  
 12:19 4 A. I think this was taken from some description,  
 12:20 5 yes.  
 12:20 6 Q. Okay. And what was the purpose of including this  
 12:20 7 in this document?  
 12:20 8 A. I don't know. I didn't create this document.  
 12:20 9 Q. And the next page, which is 23, that's also a  
 12:20 10 description of your invention; is that correct?  
 12:20 11 A. Well, it's the same list.  
 12:20 12 Q. Oh, it's a continued? I see.  
 12:20 13 A. Yeah, it's a continuation.  
 12:20 14 Q. So, the answer's yes, then?  
 12:20 15 A. Yes, sir.  
 12:20 16 Q. Page 24?  
 12:20 17 A. Yes, sir.  
 12:21 18 Q. And is it your belief that the document was  
 12:21 19 prepared around 2005?  
 12:21 20 A. I have no idea honestly. I do not know.  
 12:21 21 Q. We can tell that it's after 2004, right after  
 12:22 22 August 2004 based on Page 93?  
 12:22 23 A. 12093?  
 12:22 24 Q. Yeah.  
 12:22 25 A. It would certainly infer that, wouldn't it?

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12:17 1 A. Now, that is my drawing. That came out of work  
 12:17 2 on the secure patent. So, this was our -- this starts  
 12:17 3 getting into, you know, these drawings were from a  
 12:17 4 number of different things. As you can see, it's very  
 12:17 5 similar to the drawing in securing.  
 12:18 6 Q. This schematic shows a system that is covered by  
 12:18 7 your 741 Patent, correct?  
 12:18 8 A. I'm not sure that's true. I would say that this  
 12:18 9 was an early evolution of the concept. Well, it says  
 12:18 10 securing Covered By Securing Digital Content, so it  
 12:18 11 seems to me this developed a little more after that, but  
 12:18 12 it says right there black and white.  
 12:18 13 Q. That's what it says, right?  
 12:18 14 A. Yeah.  
 12:18 15 Q. At least at the time that you prepared this chart  
 12:18 16 you believe that the design on Page 13020 was covered by  
 12:18 17 the 741 Patent?  
 12:18 18 A. Yes.  
 12:19 19 Q. Page 21, what does this show?  
 12:19 20 A. Just pretty much the same thing.  
 12:19 21 Q. What's the difference between the two?  
 12:19 22 A. That's a good question. It looks like they're  
 12:19 23 exactly the same thing to me.  
 12:19 24 Q. If you turn to Page 13022, this is something you  
 12:19 25 prepared too on your securing digital content concept?

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12:22 1 Q. If you turn to Page 07 through 09, if you would?  
 12:22 2 A. Yes, sir.  
 12:22 3 Q. Did you create this list?  
 12:23 4 A. Yes.  
 12:23 5 Q. And the regulating access to digital content,  
 12:23 6 that's a description to the 541 Patent?  
 12:23 7 A. Yes.  
 12:23 8 Q. And controlling access to electronic content  
 12:23 9 that's --  
 12:23 10 A. No longer is in the world. Controlling never off  
 12:23 11 the ground, so.  
 12:23 12 Q. And the tracking electronic content, that's the  
 12:23 13 purple?  
 12:23 14 A. Yes, sir.  
 12:23 15 Q. And that's the 670 Patent?  
 12:23 16 A. Yes, sir.  
 12:24 17 Q. And turning to Page 25, if you would?  
 12:24 18 A. Yes, sir, 25.  
 12:24 19 Q. It shows this list of possible infringers. Have  
 12:24 20 you seen -- did you create this list?  
 12:24 21 A. I did not.  
 12:24 22 Q. Okay. Have you seen this list before?  
 12:24 23 A. Probably, I don't know. Probably. I don't know.  
 12:24 24 I've seen many lists.  
 12:24 25 Q. Do you know if any action was taken to address

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Eugene B. Phillips, II

03:25	1	A. Well, we were attempting to perform a similar	03:28	1	systems used by Adobe, right?
03:25	2	level security function without a commercial PKI system	03:28	2	MR. PRICE: Objection form.
03:26	3	entirely in our own structure with just very minimal	03:28	3	A. This is in the scope of this PKI public private
03:26	4	data transfer between the client and our server and our	03:29	4	key system, and that that aspect, it is different.
03:26	5	proprietary back end.	03:29	5	Q. So, you're saying at the time you knew that Adobe
03:26	6	Q. And do you know whether anyone else had	03:29	6	had other systems that were the same as the
03:26	7	accomplished that at that time?	03:29	7	DigitalContainer systems. Does that seem a little
03:26	8	A. No, I don't.	03:29	8	farfetched?
03:26	9	Q. Do you know whether that was new?	03:29	9	A. In my experience.
03:26	10	A. I was under the impression it was new.	03:29	10	MR. PRICE: Let me object, form.
03:26	11	Q. Before you submitted your patent had you done any	03:29	11	A. You know, the -- when you purchased an Adobe
03:26	12	review of the literature of the different types of	03:29	12	product, which I use and quite fond of by the way, the
03:26	13	systems out there?	03:29	13	concept in which it is, you know, authorized and tied to
03:26	14	A. No. That was as far as I'm concerned the	03:29	14	you and your device is I thought was all over us.
03:26	15	technical side of -- that was really, you know, our	03:29	15	Q. Did you report that to management and tell them
03:26	16	engineers purvey. And my side was trying to work out	03:29	16	that you thought their business plans were wrong?
03:26	17	the progression (SIC) logic.	03:29	17	A. Well, I never read this, for one thing, but we
03:27	18	Q. If you turn to Page 24?	03:30	18	did, you know, our key system was unique, so in that
03:27	19	A. Okay.	03:30	19	aspect, it is different. The general process, though,
03:27	20	Q. And you see where it says at the last paragraph:	03:30	20	quite similar.
03:27	21	Importantly, DCS, that's the DigitalContainer Solution,	03:30	21	Q. I see. So, the difference between what Adobe
03:27	22	possesses a significant competitive advantage in the	03:30	22	does and the DigitalContainer patents is the way the key
03:27	23	marketplace against companies such as Adobe?	03:30	23	system works; is that correct?
03:27	24	A. I do see that paragraph.	03:30	24	MR. PRICE: Objection form.
03:27	25	Q. And did you agree with that at the time?	03:30	25	A. The fact that there apparently was a third party
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03:27	1	A. Yes.	03:30	1	trusted key server, public key server.
03:27	2	Q. And it says: All of these competitors use a	03:30	2	Q. Do you know whether Adobe was using a third party
03:27	3	public key system to protect the digital content as	03:30	3	key server in 2002?
03:27	4	discussed earlier.	03:30	4	A. No.
03:28	5	Do you see that?	03:30	5	Q. You have no idea at all in the world, do you?
03:28	6	A. Yes, sir.	03:30	6	A. No, um-hmm.
03:28	7	Q. And that's referring to Adobe?	03:30	7	Q. Do you have any explanation why in the business
03:28	8	A. Yes, sir.	03:30	8	plan they didn't say, but Adobe has other business plans
03:28	9	Q. And it's stating that the system used by Adobe is	03:30	9	that are actually infringing?
03:28	10	different from the patented DigitalContainer system;	03:31	10	MR. PRICE: Objection form.
03:28	11	isn't that what that's saying in this paragraph?	03:31	11	A. No, I don't.
03:28	12	A. As far as using a public key system in that	03:31	12	Q. You'll agree generally in the 2002 business plan
03:28	13	detail, yes.	03:31	13	DigitalContainers is distinguishing the difference
03:28	14	Q. When you say that detail?	03:31	14	between the DRM systems it has patented versus the DRM
03:28	15	A. Well.	03:31	15	systems that Adobe is using?
03:28	16	Q. This is -- let me just finish.	03:31	16	MR. PRICE: Object to the form.
03:28	17	A. Excuse me.	03:31	17	A. Could you repeat that, please?
03:28	18	Q. Let me just ask a question. DigitalContainers is	03:31	18	MR. REINES: Could you read that back,
03:28	19	saying that its patented system has a significant	03:31	19	please.
03:28	20	competitive advantage against the companies such as	03:31	20	(Whereupon, the requested portion was read
03:28	21	Adobe, correct?	03:31	21	by the reporter.)
03:28	22	MR. PRICE: Objection to form.	03:31	22	A. As it says in this paragraph, the last paragraph
03:28	23	A. That's what it says.	03:31	23	in 23308, it specifically mentioned the public key
03:28	24	Q. And the reason is because the patented technology	03:31	24	system. In that aspect we were different from everybody
03:28	25	in the DigitalContainer patents is different from the	03:31	25	on earth in my knowledge. In the basic concepts of
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03:32 1 regulating, they're all over us. I'm sorry, I truly  
 03:32 2 believe that.  
 03:32 3 Q. And you knew in 2002, right?  
 03:32 4 A. I thought as far as I felt that the process was  
 03:32 5 an infringement?  
 03:32 6 Q. Yes.  
 03:32 7 A. Yeah.  
 03:32 8 Q. Did you share that with management?  
 03:32 9 A. I think --  
 03:32 10 Q. You must have had discussions with Chip over  
 03:32 11 drinks or whatever?  
 03:32 12 MR. PRICE: Objection to form.  
 03:32 13 A. We thought all these companies were infringing  
 03:32 14 because, you know, we had a basic thing and somebody has  
 03:32 15 to do it. Excuse me, that was my feeling.  
 03:32 16 Q. You felt strong about it? You're feeling pretty  
 03:32 17 strong about it now?  
 03:32 18 A. Well, no, I'm just saying that, you know, there's  
 03:32 19 no -- I mean, we honestly felt like that we had a very  
 03:32 20 basic process that can only be done only a couple of  
 03:32 21 ways, and that there's anybody doing this process was  
 03:32 22 probably infringing on us. I mean, that was my view as  
 03:32 23 a layman. That's why we got you guys.  
 03:33 24 Q. And you didn't hide that from your Mr. Venters,  
 03:33 25 did you?

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03:34 1 MR. PRICE: Objection to form.  
 03:34 2 A. I would think that it does.  
 03:34 3 Q. And what system of theirs?  
 03:34 4 A. I think that their general application locking  
 03:34 5 system like you bought, like I bought Creative Suite.  
 03:35 6 Wonderful program, by the way. It is locked to your  
 03:35 7 machine when you buy it. You can't copy that to anybody  
 03:35 8 else's machine. So, that basic process at least part of  
 03:35 9 741 covers. I do believe it's infringing.  
 03:35 10 MR. PRICE: Objection form to the last  
 03:35 11 question, please.  
 03:35 12 BY MR. REINES:  
 03:35 13 Q. Do you know what the encryption scheme is in  
 03:35 14 terms of how the keys are, where they're held, how  
 03:35 15 they're made?  
 03:35 16 A. I assumed it was a PKI system.  
 03:35 17 Q. Do you know?  
 03:35 18 A. I don't know for sure. I never did research. I  
 03:35 19 never did research their software.  
 03:35 20 Q. And do you know if they -- if Adobe uses a  
 03:35 21 container ID to create keys at any point in its process?  
 03:35 22 A. No, I do not know.  
 03:35 23 Q. You've no idea at all?  
 03:35 24 A. No.  
 03:35 25 Q. And how about EA?

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03:33 1 A. Hide the fact that I thought these companies were  
 03:33 2 probably infringing?  
 03:33 3 Q. Right.  
 03:33 4 A. No, I didn't hide it, but I was kind of concerned  
 03:33 5 with other things, like survival.  
 03:33 6 Q. Okay. And in terms of when Digital Containers  
 03:33 7 and Digital Reg pursued patent infringement against  
 03:33 8 these companies, that's not something that you know  
 03:33 9 about. That was something -- that was somebody else's  
 03:33 10 job?  
 03:33 11 A. No, I don't know anything about that.  
 03:33 12 Q. And did you ever ask them why they weren't  
 03:33 13 pursuing people for infringement if that's what you  
 03:33 14 believe was happening?  
 03:33 15 A. No, I don't. I mean, yeah, our concern at the  
 03:34 16 time was funding, you know. So, I -- this was really,  
 03:34 17 you know, a lawsuit was not on my mind at the time  
 03:34 18 because I'm not in that area.  
 03:34 19 Q. And in terms of your 741 Patent, did you believe  
 03:34 20 right from the start that that was being infringed by  
 03:34 21 everybody? Everyone had to infringe that?  
 03:34 22 A. 741, oh, I don't know. That's a good question.  
 03:34 23 I'm not sure.  
 03:34 24 Q. Do you know whether Adobe infringes the 741  
 03:34 25 Patent?

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03:35 1 A. I don't really know personally.  
 03:36 2 Q. But you're still -- you're sure they're  
 03:36 3 infringing your 741 patent?  
 03:36 4 MR. PRICE: Object to the form.  
 03:36 5 A. Well, of the 741, I don't know.  
 03:36 6 Q. You're familiar with the concept of decentralized  
 03:36 7 super DRM or centralized DRM? Are those concepts  
 03:36 8 familiar to you?  
 03:36 9 A. Hazy world of marketing, yes, I think they are.  
 03:36 10 Q. Okay, well, why don't -- I'll show you a document  
 03:36 11 and we'll talk about it.  
 03:36 12 Marked as Exhibit 13 is a document entitled with  
 03:36 13 the heading Purpose of the Business Plan. It's DIGREG  
 03:37 14 11264 verse 11307. If you turn to 11285, please. Okay,  
 03:37 15 do you see the reference to Decentralized SuperDRM  
 03:37 16 versus centralized DRM?  
 03:37 17 A. Yes, sir.  
 03:37 18 Q. Okay. And what do you understand the difference  
 03:37 19 to be from a technology and business model perspective?  
 03:37 20 A. Again, you know, to me this is referring to the  
 03:39 21 need to employ, you know, these third party PKI systems.  
 03:39 22 Q. So, your understanding is that --  
 03:39 23 A. And I, I'm sorry, go ahead.  
 03:39 24 Q. No, you go.  
 03:39 25 A. I know that we felt that our lightweight system

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03:39 1 where many clients were passing very small amounts of  
 03:39 2 information, we felt like that's the advantage.  
 03:39 3 Q. And with respect to the Microsoft Windows system,  
 03:39 4 was it your understanding that that was used as a  
 03:39 5 third-party PKI?  
 03:39 6 A. Well, I was pretty -- I was under the impression  
 03:39 7 they did use a public key server, yeah.  
 03:39 8 Q. That was a Microsoft server or some third party?  
 03:39 9 MR. PRICE: Objection to form.  
 03:39 10 A. I don't know the answer to that question.  
 03:40 11 Q. So, are you aware of PKI systems where the public  
 03:40 12 key is maintained by the DRM service provider rather  
 03:40 13 than some third party?  
 03:40 14 A. Not really, no.  
 03:40 15 Q. And you don't know whether Microsoft,  
 03:40 16 RealNetworks, Apple, Macrovision, IBM, Softwrap, Clear  
 03:40 17 Key, Altnet or DMOD used that or not?  
 03:40 18 A. I'm not aware specifically, no.  
 03:40 19 Q. They could, they couldn't, you just don't know?  
 03:40 20 A. I don't know.  
 03:40 21 Q. Were you involved in attempting to sell the  
 03:41 22 DigitalContainer system to customers?  
 03:41 23 A. No.  
 03:41 24 Q. How did you decide which documents you were going  
 03:42 25 to produce in connection with the requests in this case?

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03:43 1 of the definitions I found and provided to our  
 03:43 2 attorneys.  
 03:43 3 Q. When you say the companies in terms of the  
 03:43 4 documents, who are you referring to, which companies?  
 03:43 5 A. DigitalContainers, Digital Reg, DRM Technologies,  
 03:43 6 LLC. I thought that's what the subpoena was talking  
 03:43 7 about.  
 03:43 8 Q. Did you differentiate between those three for who  
 03:43 9 had which documents?  
 03:43 10 A. No.  
 03:43 11 Q. Why not?  
 03:43 12 A. Because they were all, you know, I kept my  
 03:43 13 documents in a kind of a one place, and I didn't even  
 03:43 14 think about that concept.  
 03:43 15 Q. When did you first have representation in this  
 03:44 16 matter? You said you were on some phone calls over the  
 03:44 17 time regarding this litigation?  
 03:44 18 A. In -- when was I aware that we had  
 03:44 19 representation?  
 03:44 20 Q. Yeah.  
 03:44 21 MR. PRICE: Objection to form.  
 03:44 22 A. Boy, that's a good question. Ooh, boy. I,  
 03:44 23 honestly, I have sat in on a few calls whenever they --  
 03:44 24 week, year, I don't know exactly.  
 03:44 25 Q. When you say you've sat in on a few calls, what

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03:42 1 A. I -- as I understood the subpoena, anything  
 03:42 2 related. You know, I searched my machine for anything  
 03:42 3 related and I provided those.  
 03:42 4 Q. When you say "anything related," related to what?  
 03:42 5 A. Our company in general. Almost four thousand  
 03:42 6 files I think, as I recall.  
 03:42 7 Q. So, when you say our company in general, you're  
 03:42 8 referring to Dig Reg?  
 03:42 9 A. DigitalContainers, Digital Reg, DRM Technologies,  
 03:42 10 LLC.  
 03:42 11 Q. You consider those basically the same thing for  
 03:42 12 purposes of this?  
 03:42 13 A. Well, for purposes of --  
 03:42 14 MR. PRICE: Objection form.  
 03:43 15 A. You know, I don't know. I don't know about that.  
 03:43 16 I know that there's some legal differences. I'm not  
 03:43 17 sure.  
 03:43 18 Q. But in terms of the document, you don't divide  
 03:43 19 them out?  
 03:43 20 MR. PRICE: Same objection.  
 03:43 21 A. Yeah, I try to. Everything remotely associated  
 03:43 22 with this case when I read the subpoena. And I didn't  
 03:43 23 want to have somebody come get my machine and find out I  
 03:43 24 had done something illegal. So, as far as I knew it,  
 03:43 25 anything related to the patents, the companies under any

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03:44 1 were they?  
 03:44 2 A. Just listening to the comments by people.  
 03:44 3 Q. Just to stay updated?  
 03:44 4 A. Yeah, exactly.  
 03:44 5 Q. You need to let me ask questions.  
 03:44 6 MR. PRICE: And don't reveal the subject  
 03:44 7 matter of privileged discussions on the phone. And  
 03:44 8 wait for the question.  
 03:45 9 BY MR. REINES:  
 03:45 10 Q. Now I'm not even getting one word out.  
 03:45 11 A. I'm sorry.  
 03:45 12 Q. The purpose of your -- these phone calls that  
 03:45 13 you're referring to regarding by litigation was just for  
 03:45 14 you to stay apprised of what was going on in the  
 03:45 15 litigation?  
 03:45 16 A. Yes, sir.  
 03:45 17 Q. And you understand that the counsel's  
 03:45 18 representing you as part of your relationship with  
 03:45 19 Digital Reg; is that right?  
 03:45 20 MR. PRICE: Object to the form.  
 03:45 21 BY MR. REINES:  
 03:45 22 Q. Are you paying for Dinovo Price yourself?  
 03:45 23 A. Not me.  
 03:45 24 Q. Okay. And you understand they're representing  
 03:45 25 you due to your affiliation with Digital Reg?

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Eugene B. Phillips, II

04:51 1 knowledge.

04:51 2 Q. When you were talking about successive recipients

04:51 3 in the content of the 070 Patent with the previous

04:52 4 attorney, Mr. Reines, do you recall that?

04:52 5 A. Yes, sir.

04:52 6 Q. And I think you said that successive recipient

04:52 7 could be a server; do you recall that?

04:52 8 A. I do.

04:52 9 Q. But that server would have to be a server that

04:52 10 receives a data from a previous recipient, wouldn't it?

04:52 11 MR. PRICE: Objection form.

04:52 12 A. Well, isn't that the definition of successive

04:52 13 recipient?

04:52 14 Q. That's what I'm asking you. Is that the

04:52 15 definition that you would be using?

04:52 16 MR. PRICE: Objection form.

04:52 17 A. Yes.

04:52 18 MR. BARCELO: All right, we don't have any

04:52 19 further questions subject to the reservation of rights

04:52 20 that I stated earlier.

04:52 21 MR. PRICE: Mark?

04:52 22 MR. LANG: We're not going to have any

04:52 23 questions either.

04:52 24 MR. PRICE: Okay, we're done.

04:52 25 VIDEOGRAPHER: Okay, this concludes today's

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04:52 1 deposition of Eugene B. Phillips, II; April the 18th,

04:52 2 2013. We're going off the record. The time on the

04:53 3 video monitor is 4:51 p.m. We're off the record.

4 (DEPOSITION CONCLUDED AT 4:51 P.M.)

5 (SIGNATURE RESERVED)

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1 STATE OF NORTH CAROLINA

2 COUNTY OF DURHAM

3

4 REPORTER'S CERTIFICATE

5 I, Regina Toppins, Shorthand Reporter and Notary

6 Public in and for the State of North Carolina, do hereby

7 certify that there came before me on Thursday, the 18th

8 day of April, 2013, the person hereinbefore named, who

9 was by me duly sworn to testify to the truth and nothing

10 but the truth of his knowledge concerning the matters in

11 controversy in this cause; that the witness was

12 thereupon examined under oath, the examination reduced

13 to typewriting under my direction, and the deposition is

14 a true record of the testimony given by the witness.

15 I further certify that I am neither attorney or

16 counsel for, nor related to or employed by, any attorney

17 or counsel employed by the parties hereto or financially

18 interested in the action.

19 IN WITNESS WHEREOF, I have hereto set my hand,

20 this the 18th day of April, 2013.

21

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23

24 \_\_\_\_\_

24 Regina Toppins, Notary Public

24 Notary Number: 200626300019

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